

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :
THE HONOURABLE MR. JUSTICE R.BASANT
MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

Bail Appl..No. 4726 of 2007()

CRIME NO.147/07 OF ATHUR POLICE STATION

PETITIONERS/ACCUSED 1 TO 10.

1. A.B.MAHIN, S/O. ABDULLA,
ANANGOD HOUSE, PO MULIYAR, KASARGODE.
2. A.B.RAFEEK,S/O.A.B. ABDUL RAHIMAN HAJI,
8TH MILE, POVVAL, MULIYAR, KASARAGODE.
3. A.B.IQBAL,S/O. A.B.KUNHAMU,
AMMANGOD, POVVAL, MULIYAR,KASARAGODE.
4. SAMEER @ JAMMU @,S/O.TIPU AHMED,
POVAL HOUSE, MULIYAR, KASARAGODE.
5. MOTTA ABDULLA,S/O.MOHAMMED,
ANANGOD HOUSE, POVVAL PO. MULIYAR.
6. ABDUL RAHIMAN, S/O,. ABDULLA,
THAIVALAP HOUSE, ANANGOD, POVVAL,
P.O.MULIYAR.
7. A.B.KALAM,S/O.A.B.KUNHAMU,
ABK HOUSE, MULIYAR, KASARAGODE.
8. S.K.ABDULLA,S/O. MOHAMMED KUNHI,
8TH MILE HOUSE, POVVAL, KASARAGODE.
9. SHERIEF, S/O. KAMARAJ ABDUL RAHIMAN HAJI
KOTA HOUSE, POVVAL, KASARAGODE.
10. RAHIM,.S/O. ABOOBACKER,
THEKKEMOLA HOUSE,VIDYANAGAR.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS: COMPLAINANT & STATE

1. THE SUB INSPECTOR OF POLICE,
ATHUR POLICE STATION.
2. STATE REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 06/08/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J.

B.A.No.4726 of 2007

Dated this the 6th day of August 2007

O R D E R

Application for anticipatory bail. Petitioners are accused 1 to 10. It is alleged that they have committed offences punishable inter alia under Sections 448 and 326 read with 149 I.P.C. All the ten petitioners are named in the F.I.R. On account of political animosity, the accused persons allegedly went to the house of the de facto complainant armed with dangerous weapons. He was called and when he came out of his house, he was allegedly attacked. He has suffered a grievous hurt - fracture of the nasal bone. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the de facto complainant belongs to C.P.M and the petitioners belong to I.U.M.L. On account of political animosity, such wild allegations are being raised against the petitioners. Crime, when registered, did not include the offence under Section 326 I.P.C. But in the course of the investigation, the allegation was included. The learned counsel for the petitioners further

submits that in Annexure 1 report submitted by the Medical Officer to the police, it is mentioned that the assault was by six persons and they were not named. There is no reference to any fracture also in such intimation issued by the Doctor to the police, it is submitted. The learned counsel for the petitioner submits that the petitioners are innocent and they deserve to be saved from the trauma of arrest and detention. Anticipatory bail may be granted to the petitioners, urges the learned counsel for the petitioner.

3. The application is opposed by the learned Public Prosecutor. The learned Public Prosecutor submits that in the F.I statement, allegations have been narrated in detail specifying the accused persons. That there was political animosity is not disputed and that allegedly is the cause/motive for the incident.

4. Having considered all the relevant inputs, I am of the opinion that there is merit in the opposition by the learned Public Prosecutor. I find no features in this case which would justify invocation of the discretion under Section 438 Cr.P.C. This is a fit case where the petitioners must appear before the learned Magistrate or the investigating officer and seek regular

bail in the normal and ordinary course. The fact that the fracture of nasal bone is not mentioned in the earliest medical documents prepared at the casualty or the fact that the accused persons have not been named to the Doctor do not at all persuade me to concede any benefit or advantage to the petitioners inasmuch fracture of the nasal bone is now confirmed and all the petitioners are named in the F.I.R itself.

3. In the result, this petition is dismissed. Needless to say, if the petitioners surrender before the investigating officer or the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007